

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Arbor Recycling/Arbor Lite Logistics,
A Single Employer

And

Case Nos.: 02-CA-180470; 02-CA-
186760; 02-CA-186930;
02-CA-188504; 02-CA-195794

Amalgamated Local 1931

**GENERAL COUNSEL'S STATEMENT OF EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S DECISION AND ORDER**

Pursuant to Section 102.46 of the Board's Rules and Regulations, Counsel for the General Counsel hereby files the following exceptions to certain portions of the Decision and Recommended Order by Administrative Law Judge Kenneth Chu, herein referred to as ALJ, dated March 26, 2018, in the above-captioned matter insofar as the ALJ erred in failing to find that Arbor Recycling/Arbor Lite Logistics, a single employer, herein Respondent, violated Section 8(a)(1) of the Act by engaging in unlawful surveillance on July 18 and July 25, 2016 and by failing to order Respondent to post a Notice at its Bronx facility.¹ More specifically, the General Counsel's exceptions to the ALJ Decision and Order are as follows:

¹ In these Exceptions, the Administrative Law Judge will be referred to as the "ALJ," the National Labor Relations Board will be referred to as the "Board," Amalgamated Local 1931 will be referred to as the "Union" or "Charging Party," and Arbor Recycling/Arbor Lite Logistics will be

EXCEPTIONS

1. The ALJ erred in finding that Respondent Agent Clesio Rodriguez Da Silva, herein Da Silva², did not violate Section 8(a)(1) of the Act by engaging in the unlawful surveillance of employees' Union activities on July 18, 2016 (ALJD 22:4-22).
2. The ALJ erred in concluding that Da Silva's observation of employees signing union cards was not out of the ordinary (ALJD 22:4-12; 24:13-26; 25:1-10).
3. The ALJ erred in finding that Respondent Night Shift Facility Manager Wellington Mercado, herein Mercado³, did not violate Section 8(a)(1) of the Act by engaging in the unlawful surveillance of employees' Union activities on July 25, 2016 (ALJD 24:5).
4. The ALJ erred in concluding that Mercado's photographing/videotaping of Union representatives and an employee was due to safety considerations (ALJD 24: 6-11).
5. The ALJ erred in failing to draw an adverse inference that Respondent Supervisor Mercado engaged in unlawful surveillance on July 25 (ALJD 22-25:4-41; 1-46; 1-26; 1-10).
6. The ALJ erred in ignoring Union Representative Cosmo Lubrano's, herein Lubrano, testimony and videotape of Mercado on July 25 (G.C.Exh 26)(ALJD 24: 5-26; 25:1-14).
7. The ALJ erred in failing to find that Mercado's videotaping of an employee speaking to Union representatives was more than a mere observation (ALJD 24:5-26; 25:1-10).

referred to as "Respondent." Citations to the AL's decision will be referred to as "ALJD" followed by the page and line numbers specifically referenced.

² The ALJ found Da Silva to be an agent of respondent within the meaning of Section 2(13) of the Act (ALJD

³ At trial, the parties stipulated that Mercado was a Supervisor and/or agent within the meaning of Sections 2(11) and 2(13) of the Act (Tr. 9,10, ALJD 4:5-11).

8. The ALJ erred in limiting the notice posting requirement to Respondent's Bayshore facility. (ALJD 42:6-19).

Dated at New York, New York
This 23rd day of April 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ruth Weinreb". The signature is fluid and cursive, with the first name "Ruth" and last name "Weinreb" clearly distinguishable.

Ruth Weinreb
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